

Please amend the claims as indicated on the attached pages showing the claims as amended and in clean form together with new claims 21 – 23. It is noted that perhaps the already submitted new claims included claims 21 through 23 but they are resubmitted as the Examiner noted that she did not have a claim 23. An additional check for \$27.00 is submitted herewith to cover any additional claim cost although it is noted that a check was already submitted previously to cover the added cost of the claims. As the total number of independent claims is 3 and the total of the present claims is 21, it is submitted that the check for \$9.00 already submitted covers the cost.

#### **REMARKS**

This response to the comments in the Dec. 17<sup>th</sup>, 2002, Office Action includes the restatement of the arguments put forth in the amendment filed on August 15, 2002 ( as requested by the Examiner in her comments under 37 CFR 1.111.

The claims, both in amended form and in clean copy form, are submitted herein in their original claim numbers. They were initially renumbered in response to the Notice of the Legal Instruments Examiner of July 18, 2002 in response to the amendment filed on June 24, 2002. A copy of that response is submitted herewith. Also submitted herewith is a copy of the Response to File Corrected Application Papers which required an abstract. It is also noted that despite the undersigned's request in the amendment

submitted on August 15, 2003, that the Examiner did not call the undersigned before acting on the case. The undersigned would like an explanation of why that request was ignored. It is submitted that a quick phone call could have led to a quick response by the undersigned thus saving valuable time during this prosecution. Since any patent to issue from this application will expire 20 years from the date of filing, time wasted during prosecution detracts from applicant's ability to commercialize its invention. Again, the same request is repeated.

The Examiner had objected to the specification as failing to provide proper antecedent basis for certain claimed subject matter.

It is the applicant's position that the matters addressed by the Examiner do, in fact, have a proper antecedent basis with the exception of one item in claim 20 and since the claim has been cancelled, the issue is moot.

The phrase having the proportions of 15 to 30% in claim for has a basis in line 3 of the fourth paragraph of page 5 but the correct proportion was 10% to 35% as indicated in the changed claim. Likewise, claims 5 and 10 have been amended to read 15% to 25% as stated in line 5 of the fourth paragraph on page 5.

The phrase 10% of polyvinyl acetate in claims 15 and 18 has a proper antecedent basis in line 3 of the third paragraph on page 3 of the specification.

The phrase noting the range of polyvinyl acetate in claim 19 as 0 to 20% has a proper antecedent basis in line 5 of paragraph 3 on page 3 of the specification.

Claims 3,4,5,7,10,11,13,14,16and 17 and their dependants were rejected under 35 U. S. C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. All these claims have been amended and now the objected to portions have either been deleted or corrected as noted in the separate sheet of amended claims.

The Examiner has rejected initial claims 1-13, 16 and 20 as unpatentable under 35 U. S. C. 103(a) over the Japanese reference 2000080356. This reference is unrelated to what applicant has invented. The Japanese disclosure speaks of a spray agent for preventing coal dust formation in outdoor coal storage yards which consists of an ethylene-vinyl acetate copolymer emulsion with a synthetic wax therein. It later mentions paraffin wax. The Examiner admits that the Japanese reference does not speak of the optimum range nor does it teach the claimed method. It is urged that these positions are not well taken and are not sustainable. The Japanese reference is made primarily of ethylene vinyl acetate copolymer. The instant invention has from 0 to 20 % polyvinyl acetate. The Japanese reference is not a chemical change agent nor does it speak of such use....it is not contemplated. Again, the Japanese reference is merely an ethylene vinyl acetate copolymer emulsion. It is a binder formed by the use of the copolymer. This material forms a film that is strong enough to glue to bind the ores together. Conversely, the instant invention has a purpose to chemically change the chemical bond structure inherent to coals. This is not just a surface treatment. Accordingly, the rejection based on the Japanese reference should be withdrawn as inapplicable.

The Examiner has rejected claims 1-11 and 13-15 under 35 U.S.C.103(a) as being unpatentable over Borenstein. The Examiner states that Borenstein teaches an aqueous emulsion comprising paraffinic wax, monan wax and polyvinyl alcohol. He goes on to state that the water makes up from 35 to 85% of the composition which also contains alkali metal or ammonium hydroxides stabilizers. He continues by reciting that the polyvinyl alcohol is at least 90% hydrolyzed polyvinyl acetate. The Examiner admits that Borenstein does not teach applicant's intended use but says it makes no difference in a composition claim. The Examiner also admits that Borenstein does not teach the claimed method but says it would be "reenable" (sic, perhaps "reasonable") to expect that the composition of Borenstein would assist complete combustion of the material since the methods steps are the same?? He further states that a "skilled artisan" would recognize how to ...either apply the composition..or obtain applicant's result?...it is not clear. It is noted that Borenstein's patent is for an additive for a gypsum composition, namely, an emulsion to improve the water resistance of gypsum compositions. He does not mention coal and the Examiner admits this. Neither does Borenstein discuss chemical change in the bonds of the material. At best, it is a former of films that is incorporated into a mixture of chemicals that make up gypsum products. While there may be some innocent similiarity the differences in applicant's composition are what is necessary to provide the changes in the FTIR reading to meet IRS Code Section 29 dealing with synthetic fuels. When coal is treated with the instant invention it becomes a "synthetic fuel" under the definition. Borenstein does not contain polyvinyl acetate which is in the instant invention. Further, Borenstein requires the use of hydrolyzed

polyvinyl acetate ( 90% hydrolyzed ) which is not required in the instant invention.

Thus it is seen that the composition of Borenstein would not work in the same way as the instant invention.

As far as the other references cited are concerned, the Bennet patent is for a material to be sprayed on coal and coke to reduce dust therein. The material used is a lignosulfaonate compound which is not present in the instant invention. Bennett does not discuss chemical change. Ranke's patent is directed to a blend of chemicals, not an emulsion and the properties are not similar. Consequently, neither Bennett or Ranke are applicable.

The new claims 21-23 distinguish from the art of record and are fully supported in the specification and present a condensed version of the synfuel additive. The claims as amended continue to define over the prior art as claim 1 calls for facilitation of chemical bonding, something not contemplated by the prior art. The exact percentages have been amended in claims 4, 5, 10, 18 and 19. Claims 2 and 20 have been cancelled. Claim 13 has had the part of the Code of Federal Regulations added to it to make it definite.

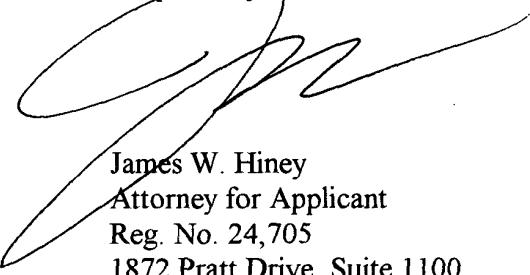
Two checks were already submitted in this case, one for the amount for a small entity Request for a Three Month Extension of Time in Which to Respond and a check for one additional independent claim represented by claims 21 through 23, minus cancelled claims 2 and 20.

It is requested that the Mail Room deposit the self-addressed stamped post card with the Postal Service after stamping it with their receipt stamp.

Again, it is also requested that the Examiner call the undersigned before acting on the application in order to arrange for an interview with the undersigned and the inventor. An interview is critical to the understanding of this invention and in view of the prosecution history, it is urged in the strongest terms. The undersigned will be calling the Examiner early next week for such a request and it is urged that it be granted.

Accompanying the Response of August 15<sup>th</sup> was a Request for an Additional Three Months in which to respond to the Office action of January 2002 As this response is within the One Month time period set for response in the Dec. 17<sup>th</sup>, 2002 action, it is deemed timely.

Respectfully Submitted,

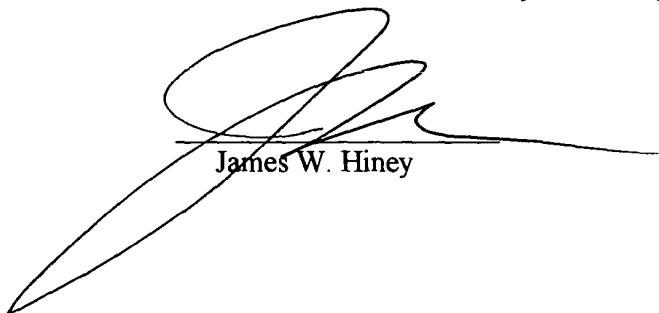


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#### **Certification of Mailing**

I, James W. Hiney, do hereby certify that an executed copy of this Response, together with copies of the entire prosecution history, including re-amended claim and

amended claims, and self-addressed postcard, were deposited, Express Mail Postage Prepaid, with the United States Postal Service, this 17<sup>th</sup> day of January, 2003.



A handwritten signature in black ink, appearing to read "J.W. Hiney". Below the signature, the name "James W. Hiney" is printed in a smaller, sans-serif font.